

# **Exhibit 39**

# BUFFALO POLICE DEPARTMENT



## RULES & REGULATIONS

EXHIBIT

**50**

01-24-2024

**TABLE OF CONTENTS**

	<u>Page(s)</u>
ATTESTATION	1
LAW ENFORCEMENT CODE OF ETHICS	2
INTRODUCTION	3
DEFINITIONS & GLOSSARY	5-8
 <b><u>CHAPTER I - ORDERS &amp; DISCIPLINE</u></b>	
1.1 Obedience to Laws, Ordinances & Rules	9
1.2 Familiarity with the Laws, Ordinances, Rules	9
1.3 Obedience to Orders	9
1.4 Issuance of Orders	9
1.5 Unlawful Orders	9
1.6 Unjust or Improper Orders	10
1.7 Conflict of Orders	10
1.8 Instructions From Radio Dispatcher	10
1.9 Effectiveness of Orders	10
1.10 Insubordination	10
 <b><u>CHAPTER II - PERFORMANCE OF AND ATTENTION TO DUTY</u></b>	
2.1 General Duties	11
2.2 Respond When Directed	11
2.3 Reporting for Duty	11
2.4 Attention to Duty	11
2.5 Devotion to Duty	11
2.6 Absence from Duty	11
2.7 Action Request Regardless of Assignment	11
2.8 Seeking Information Regarding Duties	11
2.9 Driving Private Vehicle to Post	11
2.10 Inspecting Area of Assignment	12
2.11 Leaving Area of Assignment	12
2.12 Attitude And Impartiality	12
2.13 Courtesy	12
2.14 Assistance To Fellow Employees	12
2.15 Assistance To Citizens	12
2.16 Civil Disputes	12
2.17 Medical Attention for Ill/Injured Persons	12
2.18 Serving Warrants/Subpoenas	12
2.19 Taking Arrested Persons to Headquarters	12
2.20 Appearances Required	13
2.21 Loitering Or Sleeping On Duty/Congregating	13
2.22 Conducting Private Business or Association on Duty	13
2.23 Reading On Duty	13
2.24 Meal Periods and Personal Services	13
2.25 Commanding Officers Addressed by Title	13

CHAPTER II - PERFORMANCE OF AND ATTENTION TO DUTY (CONT'D)

2.26	Concealment	13
2.27	Civilian Passengers In Police Vehicles	13

CHAPTER III - GENERAL CONDUCT

3.1	Responsibility	14
3.2	Conduct	14
3.3	Frequenting Unlawful Establishments	14
3.4	Personal Associations	14
3.5	Truthfulness	14
3.6	Unnecessary Force	14
3.7	Discussing Evidence	14
3.8	Divulging Police Information	15
3.9	Information Where City Is Interested Party	15
3.10	Speeches, Statements, Etc.	15
3.11	Forwarding Information	15
3.12	Independent Investigations	15
3.13	Testimony	15
3.14	Accepting Rewards, Gratuities, Etc.	15
3.15	Testimonials, Solicitations, Etc.	15, 16
3.16	Membership and Organizations	16
3.17	Political Activity	16
3.18	Seeking/Accepting Compensation For Damages Or Injury	16
3.19	Debts	16
3.20	Expenditures Of Department Funds	16
3.21	Correspondence, Letterheads	16
3.22	Personal Cards	17
3.23	Found, Recovered Property	17
3.24	Use of Alcoholic Beverages	17
3.25	Use of Tobacco	17
3.26	Controlled Substance	17
3.27	Use of Force	17
3.28	Firearms and Ammunition	17
3.29	Applications for Pistol Permits	17, 18
3.30	Uniforms	18
3.31	Non-Uniform Attire	18
3.32	Outside Employment	18
3.33	Sick Leave	18

CHAPTER IV - USE OF OFFICIAL POSITION

4.1	Use of Badge Or Position For Personal Gain	19
4.2	Disclosing Name and Badge Number	19
4.3	Courtesy Cards	19
4.4	Using Photograph For Commercial Purpose	19
4.5	Using Influence of Office For Political Gain	19
4.6	Recommending Attorneys	19
4.7	Giving Surety or Bail For Persons In Custody	19
4.8	Withdrawing Charges	19
4.9	Communicating Information To Aid Evasion	19

CHAPTER IV - USE OF OFFICIAL POSITION (CONT'D)

4.10	Warrants For Personal Assaults	20
4.11	Civil Cases	20
4.12	Appearing As Witness; For Defense or Civil Case	20
4.13	Communication Between Prisoners and Attorneys	20
4.14	Unlawful Compromise	20
4.15	Plea Bargaining	20
4.16	Connection With Liquor Establishment	20

CHAPTER V - DEPARTMENTAL PROPERTY

5.1	Use and Responsibility	21
5.2	Reporting Loss Or Damage	21
5.3	Qualification Required	21
5.4	Property Not To Be Removed	21
5.5	Return Of Issued/Assigned Property	21
5.6	Unauthorized Communication Devices	21
5.7	Departmental Buildings	21,22

CHAPTER VI - REPORTS, RECORDS AND COMMUNICATIONS

6.1	Altering, Delaying, Removing or Falsifying Reports	23
6.2	Inspection; Copying of Reports	23
6.3	Departmental Business; Timeliness of Reports	23
6.4	Reporting Violations	23
6.5	Reporting Illegal Activities	23
6.6	Unauthorized Gifts, Gratuity, Etc.	23
6.7	Testimony For Defense	24
6.8	Information Regarding Crime	24
6.9	Arrests and Court Actions	24
6.10	Address and Telephone Number	24
6.11	Civil Suits; Claims For Loss or Personal Injury	24

CHAPTER VII - SUPERIOR OFFICERS/SUPERVISORS

7.1	Duties and Responsibilities; General	25
7.2	Abuse of Subordinates	25
7.3	Duty to Investigate and Report Misconduct	25
7.4	Exemplary Conduct Expected	25
7.5	Duty to Discover	25

**ATTESTATION**

By virtue of the authority vested in the Commissioner of Police by the Charter of the City of Buffalo, I hereby order the adoption of the following Rules and Regulations for the government and discipline of the Buffalo Police Department.

The precepts in the introduction are also incorporated as a part of the Rules and Regulations.

These Rules and Regulations supersede any previously issued. The right to amend or revoke these Rules and Regulations at any time is reserved to the Commissioner of Police.

Buffalo, New York  
1997

R. Gil Kerlikowske  
Commissioner of Police

LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all persons to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided in me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession .... law enforcement.

## INTRODUCTION

A police organization is established by law. Its employees serve those whose personal conduct they may be called upon to regulate by enforcing laws and ordinances passed by the representatives of these same people. The primary objectives of the Police Department include: protecting life and property, preventing crime, suppressing criminal activity, apprehending and prosecuting violators of the law, regulating non-criminal conduct, and preserving the peace.

In our democratic society the legislature frames and constructs the law while the judiciary interprets the law and imposes the necessary penalties upon transgressors. It is the police, however, who have the sworn duty to directly apply and execute the law fairly and objectively for the benefit of the entire community. This task has become one of the most difficult and most demanding responsibilities in the public service.

The letter of the law indicates what a member does to discharge the obligations imposed by the oath of office, but it does not encompass the consequences which may arise from the universal application of these laws. Since it is not possible to anticipate every situation that may arise, or to prescribe the specific course of action required for each case, the exercise of common sense and good judgment by those entrusted with law enforcement is necessary to make the police service equitable and effective.

An understanding of human behavior and the application of the principles of common acceptance will go far towards the realization of the primary police objectives but these two qualities alone are not sufficient to ensure the proper handling of every incident. There must also be standards of quality and general rules governing the conduct of personnel to serve as guides.

The Charter of the City of Buffalo, the contents of this manual and the Manual of Procedures, and the orders, directives and authoritative instructions of the Police Department regulate the manner in which Buffalo Police Department employees execute their specific duties.

Employees of the Police Department will be governed by specific and various rules, regulations and procedures, and violations will constitute a basis for disciplinary action.

Many of the Rules and Regulations which appear to have been deleted from the previous edition, have actually been incorporated with others and/or rephrased, i.e., rules may have undergone a change in form but not in substance. Many other rules and regulations may appear in other authoritative sources, for example, the Manual of Procedures, and have been deleted from this edition solely because of redundancy. The same high standards and intent of previous editions remain in effect.

If any section, subsection, paragraph, sentence, clause, or phrase of this Manual of Rules and Regulations for any reason is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions or sections of these Rules and Regulations.

This Manual is delivered to you with the requirement that you study it carefully and be fully aware of its contents and meaning. The Rules and Regulations contained are designed to fulfill a two-fold mission: first, they form the basic framework of authority within which the operating procedures and policies of the Police Department are developed and second, they are designed to provide employees with a clear guide to acceptable standards of conduct and behavior.

Nothing in this Manual of Rules and Regulations is limited in the sense of prohibiting the disciplining of, or the filing of charges against, employees because the alleged act or omission does not specifically appear herein.



## DEFINITIONS AND GLOSSARY

### ACTING

Serving temporarily in a position to which the employee is not ordinarily assigned, usually in a position of higher authority. All the authorities, responsibilities, and duties of the higher position become the responsibility of the acting employee.

### ASSIGNMENT

Any personnel placement made by established authority.

### AUTHORITY

Legal or rightful power; a right to command or act.

### AUTHORITATIVE INSTRUCTION

Any order, either verbal or written, governing policy, procedure, rules or regulations.

### CHAIN OF COMMAND

In descending or ascending order of rank, the line of authority, extending from the Commissioner through every level of Command, as indicated by the Organizational Chart of the Department.

### COMMANDING OFFICER

The term "commanding officer" as used herein shall refer to all employees holding a higher supervisory or command position.

### CRIME

As used herein, an act or commission of an act that is forbidden or the omission of a duty that is commanded by law which makes the offender liable to punishment by law; a violation of law.

### DEPARTMENT

The term "Department" as used herein shall refer to the Buffalo Police Department.

### DUTY

Includes those tasks required by one's assignment, rank or status.

### EMPLOYEE

The word "employee" as used herein shall include all sworn and non-sworn personnel assigned to the Department.

### GENDER

The use of the masculine gender shall also include, when appropriate, the female gender.

### IMMEDIATELY

The term "immediately" means as soon as possible without unnecessary delay.

### INCOMPETENCE

Being incapable of the satisfactory performance of duties, which may include a lack of initiative, diligence, sound judgment, ability to take decisive action or any other trait which demonstrates incapacity or ineptness in the performance of assigned tasks.

### INSUBORDINATION

The failure or deliberate refusal to promptly obey a lawful order given by a commanding/superior officer or employee; ridiculing a superior officer/employee or the superior's orders; any disrespectful, insolent, or abusive language or action toward any commanding officer.

### MALFEASANCE

The doing of an unlawful act in office.

### MAY

The word "may" as used herein shall mean that the action indicated is permissible.

### MEMBER

The word "member" as used herein shall include any person duly appointed to the Department as a sworn police officer. Police Recruits/Probationary Police Officers are included in this definition.

### MISFEASANCE

The wrongful doing of a lawful act in office.

### NEGLECT OF DUTY

Failure to give suitable attention to the performance of duty. Failure to take appropriate action on the occasion of a crime, disorder, or other act or condition requiring police attention. Failure to perform duties.

### NONFEASANCE

The omission of an act which should have been done while in office.

### OFF DUTY

That period of time which excludes the assigned work period. The period of time during which an employee would not normally be required to actively engage in the performance of his assigned duties.

### OFFICER IN CHARGE

The member having the highest Civil Service rank. Members of the same grade shall assume charge according to the date of appointment to that rank unless otherwise ordered by the Commissioner of Police.

### ON DUTY

That period of time when an employee is actively engaged in the performance of his assigned duties.

### ORDERS

An order is a command; a directive (either oral or written) given by one in authority and directed to a subordinate(s).

General Order: Written orders issued by the Commissioner outlining policy on matters which affect the entire Department. A General Order is the most authoritative directive issued by the Department and may be used to amend, supersede, or cancel any other rule, regulation, or order. General Orders are permanent Departmental policy and remain in full force and effect until amended, superseded, or cancelled by the Commissioner.

Lawful Order: Is any written or oral directive issued by any commanding officer to any subordinate or group of subordinates in the course of police duty which is not in violation of any law or ordinance or any Departmental rule, procedure or instruction.

Special Order: Is a written directive issued by established authority outlining instructions covering particular situations.

### POLICY

Any governing principal, broad plan, or course of action, either oral or written, designed to accomplish the Department's goals.

### PROCEDURE

The official method of dealing with any given situation as prescribed by General Orders, Special Orders, Manual of Procedures, Training Bulletins or other directives.

### REPORT

A written communication unless otherwise specified.

### RULES AND REGULATIONS

The terms "rules" and "regulations" as used herein are interchangeable since both indicate basic internal departmental legislation. They refer to broad precepts of authority, responsibility or conduct. They carry the full force and effect of a direct order from the Commissioner and stand until cancelled or superseded by a direct order of the Commissioner.

### SHALL/WILL

The words "shall" or "will" as used herein shall indicate that the action specified is mandatory.

### SICK LEAVE

That period during which an employee is excused from duty under the applicable provisions of current regulations and/or prevailing contract.

### SUPERVISOR

Any person designated to act in a supervisory capacity.

### THROUGH OFFICIAL CHANNELS

In descending or ascending order of rank. Synonymous with "Chain of Command".

RULES AND REGULATIONS

The terms "rules" and "regulations" as used herein are interchangeable since both indicate basic internal departmental legislation. They refer to broad precepts of authority, responsibility or conduct. They carry the full force and effect of a direct order from the Commissioner and stand until cancelled or superseded by a direct order of the Commissioner.

General Order No. 90-7

July 3, 1990

TO: ALL MEMBERS OF THE DEPARTMENT

SUBJECT: Changes in the Rules & Regulations

PURPOSE: To Conform with Rulings of the State Public Employment Relations Board

- A. Rule 1.1(a) of the Rules & Regulations is rescinded in its present form.

Rule 1.1(a) is hereby amended to read "Employees shall not violate any law of the United States, the State of New York, or the ordinances of the City of Buffalo."

- B. Rule 3.10(b) is hereby rescinded.

All members of the Department are directed to note the changes in their copies of the Rules & Regulations, and cite the number of this General Order in the margin next to each rule.

No new pages will be issued at this time.

EFFECTIVE This General Order is effective immediately.

DATE:

Ralph V. Degenhart, Commissioner

ns of

## CHAPTER I - ORDERS AND DISCIPLINE

### 1.1 OBEDIENCE TO LAWS, ORDINANCES AND RULES

a) Deleted as per PERB decision of 6/25/90.

b) Employees shall obey all the Rules and Regulations, General Orders, and authoritative instructions of the Department. (In order to constitute a violation of this rule, it is not necessary that a complaint be filed with the Department or with a criminal court, but only that the facts exist which would constitute a violation of the law, ordinance, rule, or authoritative instruction).

### 1.2 FAMILIARITY WITH THE LAWS, ORDINANCES, RULES

Employees shall study and become familiar with the Rules and Regulations, orders, directives and policies of the Department, City Ordinances, and State and Federal Laws affecting their duties.

a) Returning from absence:

Employees returning to duty from any absence shall acquaint themselves with all amendments, additions, orders, and other authoritative instructions of the Department which have been issued in their absence.

b) Unfamiliarity No Defense:

In the event of a breach of discipline, unfamiliarity with or ignorance of Rules and Regulations or General Orders shall not constitute a defense.

c) Making Changes as Directed:

It shall be the responsibility of every employee to promptly make all directed changes in any manual, text, or reference book issued to them by the Department.

### 1.3 OBEDIENCE TO ORDERS

Employees shall comply with all lawful orders.

### 1.4 ISSUANCE OF ORDERS

Orders, written or verbal, from any supervisor to any subordinate in the Department, shall be in clear, understandable language, civil in tone and issued in pursuit of Departmental business in accordance with all legal requirements.

### 1.5 UNLAWFUL ORDERS

No superior officer/supervisor shall knowingly issue any order which is a violation of any law, ordinance or Departmental Rule or Procedure. Obedience to any unlawful order is never a defense for an unlawful action; therefore, no employee is required to obey any order which is contrary to Federal, State or local law or ordinance. Responsibility for refusal to obey any unlawful order rests with the employee to whom such order was given. The employee shall be strictly required to just such action.

#### 1.6 UNJUST OR IMPROPER ORDER

When lawful orders which appear to be unjust or improper are given, the employee to whom the order is given shall respectfully notify the superior officer/supervisor issuing such order of its impropriety. If the order is not corrected, then the order is to be carried out. After carrying out the order, the employee to whom the order was given may file a written report to the Commissioner via the Chain of Command indicating the circumstances and reasons for questioning the order, along with a request for clarification of Departmental Policy. An employee who performs an order found to be unjust or improper by the Commissioner, but otherwise lawful, will not be held responsible for carrying out such order.

#### 1.7 CONFLICT OF ORDERS

Employees who are given any instruction or order which conflicts with any previously received instruction or order shall call this fact to the attention of the person issuing the second order. If so directed, the latter order shall be obeyed. Previous orders or instructions shall be countermanded only when necessary. The supervisor issuing the countermanding instructions or order shall be held responsible for that action.

#### 1.8 INSTRUCTIONS FROM RADIO DISPATCHER

All messages transmitted over the Police Radio System shall be direct and concise and shall conform with all Departmental radio procedures and the Rules and Regulations of the Federal Communications Commission.

No officer shall fail to obey or refuse to take cognizance of any communication transmitted by the Radio Dispatcher, unless directed to do so by a superior officer. Superior Officers shall be held strictly accountable for any communication/order countermanded by them.

#### 1.9 EFFECTIVENESS OF ORDERS

All General Orders, Special Orders, Directives, Training and Legal Bulletins, Memorandums or other orders in writing that have been approved or authorized by the Commissioner, shall have the force and effect of a Departmental Rule or Regulation and shall be obeyed as such.

#### 1.10 INSUBORDINATION

Employees shall not be insubordinate.

## CHAPTER II - PERFORMANCE OF AND ATTENTION TO DUTY

### 2.1 GENERAL DUTIES

Members shall protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law and enforce those laws of the United States, the State of New York, and Ordinances of the City of Buffalo over which the Department has jurisdiction.

### 2.2 RESPOND WHEN DIRECTED

Employees shall respond as directed by established authority.

### 2.3 REPORTING FOR DUTY

Members shall report for duty promptly at the time and place required by their assignment or as otherwise directed by the Commissioner or their Commanding Officer. They shall be properly uniformed and suitably equipped, ready to immediately assume their duties. While on duty, they shall avoid any activities not directly related to their duties and responsibilities and shall not absent themselves from duty without leave. Members unable to report for duty because of sickness or injury shall notify, or cause to be notified, their commanding officer/supervisor as soon as possible prior to the start of their tour of duty. It shall be the commanding officer's responsibility to make note of tardiness and to keep a record of all tardiness.

### 2.4 ATTENTION TO DUTY

Members shall at all times be alert and vigilant in the performance of their duties and shall respond prudently but decisively when police action is required.

### 2.5 DEVOTION TO DUTY

Members, while on duty, shall devote their full time and attention to the service of the Department and to the citizens of the community.

### 2.6 ABSENCE FROM DUTY

Employees shall not be absent from duty without obtaining permission from their supervisor in accordance with current directives.

### 2.7 ACTION REQUIRED REGARDLESS OF ASSIGNMENT

Members shall take appropriate action regarding any violation of law they observe, or which is brought to their attention regardless of their assignment or duties. Exceptions may be made for persons on special duties or assignments.

### 2.8 SEEKING INFORMATION REGARDING DUTIES

Employees who are in doubt as to the nature or detail of their assignment shall immediately seek such information from their supervisor.

### 2.9 DRIVING PRIVATE VEHICLE TO POST

Members will not drive, use, or park a private vehicle in the vicinity of their post, except with permission of their commanding officer.



## 2.10 INSPECTING AREA OF ASSIGNMENT

Employees will inspect their areas of assignment as soon as possible after beginning their tour of duty and as often as possible during their tour of duty, reporting any condition requiring police attention or the attention of any other city department or agency.

## 2.11 LEAVING AREA OF ASSIGNMENT

Employees shall not leave their area of assignment unless:

- a) on assignment from the radio dispatcher;
- b) authorized by a commanding officer;
- c) an incident outside of their immediate area requires police attention;
- d) in close pursuit of a violator of the law.

## 2.12 ATTITUDE AND IMPARTIALITY

Employees, while vigorous and unrelenting in the enforcement of the law, must maintain a strictly impartial attitude toward complainants, violators, witnesses and suspects.

## 2.13 COURTESY

Employees shall perform their duties in an efficient, courteous, and orderly manner using patience and good judgment at all times. They shall be courteous and considerate to the public, to their superior officers and to their fellow employees. They shall not use harsh, profane, or insolent language. They shall be tactful in the performance of their duties and are expected to exercise the utmost patience and discretion even under the most trying circumstances.

## 2.14 ASSISTANCE TO FELLOW EMPLOYEES

Employees shall aid, assist and protect their fellow employees to the full extent of their capability in times of need and in accordance with established procedures.

## 2.15 ASSISTANCE TO CITIZENS

Employees shall, in accordance with policies and procedures of the Department, render all possible police service to any citizen seeking information or assistance.

## 2.16 CIVIL DISPUTES

Members shall take a neutral position in any dispute of a civil nature, acting only to prevent or control any breach of the peace that may arise.

## 2.17 MEDICAL ATTENTION FOR ILL/INJURED PERSONS

Employees shall insure that any injured or ill person is given the opportunity for medical attention.

## 2.18 SERVING WARRANTS/SUBPOENAS

Employees are to serve all warrants and subpoenas in accordance with current statutes and directives.

## 2.19 TAKING ARRESTED PERSONS TO HEADQUARTERS

Employees taking custody of arrested persons will send or take these persons to the place of booking immediately unless directed otherwise a commanding officer or when medical attention is required.

2.20 APPEARANCES REQUIRED

a) Employees, when notified by competent authority, shall appear promptly at the appointed time and place before any court or tribunal. If subpoenaed, they shall notify their supervisor and other authority as required. They shall not absent themselves from any trial or hearing except for good cause in which case they shall notify either the Assistant District Attorney, the Court Attendant or whoever is in authority over the hearing board or internal investigative body.

b) Employees must respond to inquiries when ordered to appear before any authorized investigating body, judicial tribunal, hearing board, or persons authorized to take testimony. All employees shall be dressed in accordance with current directives when testifying and be punctual in attendance.

2.21 LOITERING OR SLEEPING ON DUTY/CONGREGATING

a) Employees shall not loiter or sleep on duty.

b) While on duty, employees shall not congregate about public places or engage in recreation or games of chance unless necessary in the performance of duty and approved by a supervisor.

c) Off-duty employees shall not congregate or loiter about public places while in recognizable uniform.

2.22 CONDUCTING PRIVATE BUSINESS OR ASSOCIATION ON DUTY

Employees shall not devote any of their on-duty time to the pursuit of any private business, private enterprise or personal association.

2.23 READING ON DUTY

Employees shall not, to the detriment of their duties or in public view, read newspapers, periodicals, or books while on duty. Publications and material pertaining to the police field may be read or studied as long as proper and efficient performance of assigned duties is not impaired.

2.24 MEAL PERIODS AND PERSONAL SERVICES

Employees shall obtain meal periods and personal services in compliance with current directives.

2.25 COMMANDING OFFICERS ADDRESSED BY TITLE

Employees, while on duty, shall address commanding officers by title.

2.26 CONCEALMENT

Employees shall not conceal themselves while on duty except for a police purpose.

2.27 CIVILIAN PASSENGERS IN POLICE VEHICLES

Members shall not transport nor allow any civilian to enter or ride in a police vehicle without first notifying and obtaining the permission of the Radio Dispatcher. If permission is granted by the Radio Dispatcher, the officer requesting permission shall announce the departure and destination points and the beginning and ending vehicle mileage. The Radio Dispatcher will announce the times of departure and arrival.

### CHAPTER III - GENERAL CONDUCT

#### 3.1 RESPONSIBILITY

- a) It shall be the responsibility of every member of the Department to familiarize themselves with the rules, regulations, orders and procedures of the Department, particularly as they relate to the position the member holds, and to obey them.
- b) Employees shall have a thorough knowledge of the duties of the position they hold and shall perform those duties with diligence.
- c) Every member of the Department shall be competent to perform the duties of the position he/she holds. Manifest inability, failure, or neglect to perform the duties incumbent upon him by virtue of his/her position or assignment shall be the subject of disciplinary action.
- d) Members assigned to temporary "Acting" duty shall have the same authority and responsibility as the regularly assigned member, and shall perform their duties with diligence.

#### 3.2 CONDUCT

- a) Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the Department.
- b) No employee shall conduct himself in such a manner, or perform any act, which is prejudicial to the good order, discipline or reputation of the Department, although such action is not specifically prohibited by any rule or order; and this whether the employee is on or off duty.

#### 3.3 FREQUENTING UNLAWFUL ESTABLISHMENTS

Employees shall not knowingly enter or remain in any premise wherein the laws of the United States, the State, or the local jurisdiction are violated, except in the direct performance of their duties.

#### 3.4 PERSONAL ASSOCIATIONS

Deleted as per PERB decision of 6/25/90.

#### 3.5 TRUTHFULNESS

Employees are required to be truthful in speech and writing whether or not under oath.

#### 3.6 UNNECESSARY FORCE

Members shall not use unnecessary force or violence toward any person, but shall use only such force as may be necessary to accomplish their lawful purpose and in conformity with existing law.

#### 3.7 DISCUSSING EVIDENCE

Employees shall not discuss with the media, or any other person, the evidence arising out of a criminal investigation or civil proceeding without the knowledge and permission of their commanding officer or established authority or unless otherwise mandated by law.

Employees shall not divulge police information to which they have access or which may come to their attention, nor shall they make any information contained in police records available to anyone except as provided by law or established authority.

3.9 INFORMATION WHERE CITY IS INTERESTED PARTY

Employees shall not divulge to any but authorized persons, information concerning any incident or investigation in which the City of Buffalo is, or could become, an interested party. All inquiries regarding such matters shall be referred to the Corporation Counsel.

3.10 SPEECHES, STATEMENTS, ETC.

a) Employees shall not fill speaking engagements, nor cause to be published, any article or writing, nor permit their names or photographs to be used in connection with any commercial advertising or promotion, as a representative or spokesman for the Department, without the approval of the Commissioner.

b) Deleted as per PERB decision of 6/25/90.

3.11 FORWARDING INFORMATION

Employees having information on any police matter, in which they are not directly concerned, shall forward, through their commanding officer, all such information to the Departmental subdivision concerned. Such information shall not be withheld under any circumstances.

3.12 INDEPENDENT INVESTIGATIONS

Except in circumstances requiring immediate police action, employees shall not conduct independent investigations outside their regularly assigned duties, without authority of a higher commanding officer. If, due to exigent circumstances, such an investigation is initiated, that fact, together with all information gathered, will be communicated to the employee's supervisor or other affected unit at the earliest possible opportunity.

3.13 TESTIMONY

When called upon to do so, employees shall give testimony completely, impartially, and without reservation, and with no desire or design to influence the result.

3.14 ACCEPTING REWARDS, GRATUITIES, ETC.

Employees shall not accept any reward, gift or gratuity as a result of any services rendered in the line of duty without first obtaining the permission of the Commissioner of Police.

3.15 TESTIMONIALS, SOLICITATIONS, ETC.

a) Employees shall not bestow testimonials or gifts on other employees of the Department without the permission of the Commissioner.

b) Employees shall not collect money, nor circulate subscription papers nor sell tickets or solicit donations, prizes or gifts for charitable or any other purpose, except upon prior permission of the Commissioner.

c) Employees shall not resort to the use of telephone, mail or handbill, or any program or advertisement in such program, or any form of printed admission, when, in so doing, the name of the Buffalo Police Department or any of the Police subdivisions, is used in furtherance of such sale or solicitation, except with the express written permission of the Commissioner.

d) Employees shall not retain any promoter or promotional agency for the purpose of solicitation or sale of tickets or other form of admission, or any program, or advertisement in such program for the benefit of the Department or any of its members, by using the Department name as a means of effecting or promoting such sale.

e) Employees shall not cause or permit to be printed or otherwise manufactured, any ticket or other form of admission, program, or other matter for the purpose of sale or solicitation, on which the name of the Department is used, without first obtaining the permission of the Commissioner.

### 3.16 MEMBERSHIP AND ORGANIZATIONS

a) Employees shall not join or be a member of any organization or society whose object or purpose, either directly or indirectly, would adversely affect the discipline or conduct of the employee or Department.

b) Employees shall not knowingly be connected with or be a member of any subversive organization except in the line of duty and with the knowledge and consent of the Commissioner.

### 3.17 POLITICAL ACTIVITY

a) Employees shall not join, or become members of any political club, association, society, or committee, or engage in any political activity, except as is permitted by law, and in no event if such membership or activity would interfere with or adversely affect, the performance of their Departmental duties.

### 3.18 SEEKING/ACCEPTING COMPENSATION FOR DAMAGES OR INJURY

Employees shall not seek, claim, litigate, or solicit, nor shall they accept from any person or agency any money or compensation for damages, expenses or injury incurred by them in the line of duty without prior written permission of both the Commissioner of Police and the Corporation Counsel.

### 3.19 DEBTS

Employees shall pay all just debts and satisfy legal liabilities incurred by them.

### 3.20 EXPENDITURES OF DEPARTMENT FUNDS

Employees shall not spend any monies or incur any financial obligations in the name of the Department without prior knowledge and permission of the Commissioner of Police.

### 3.21 CORRESPONDENCE, LETTERHEADS

a) All correspondence leaving the Department shall be issued only with the signature of the Commissioner of Police or as authorized by the Commissioner of Police.

b) The official letterhead of the Department shall not be used for unofficial correspondence.

3.22 PERSONAL CARDS

Employees shall not possess or use business cards or any other identification cards bearing Departmental affiliation and/or rank, except as authorized by the Commissioner of Police.

3.23 FOUND, RECOVERED PROPERTY

Employees shall, in accordance with current directives, transmit immediately to the custody of the Bureau of Administrative Services all found, confiscated, or recovered property coming into their possession.

3.24 USE OF ALCOHOLIC BEVERAGES

a) Employees shall not drink, purchase or have in their possession any alcoholic beverage while on duty, except in the performance of their official duty, nor shall any alcoholic beverage be brought into any police facility except in the performance of duty.

b) Employees who are off duty in uniform or in any recognizable part of their uniform, shall not drink alcoholic beverages in public view.

c) Employees, while off duty, shall not drink any alcoholic beverages to the extent which renders them unfit to perform or report for duty or which results in the commission of an act which might tend to discredit the Department.

3.25 USE OF TOBACCO

Employees shall not chew or smoke tobacco while on duty and in public view, in such a manner as to adversely affect the professional image of the Department.

3.26 CONTROLLED SUBSTANCE

Employees, whether on or off duty, shall not possess or use any non-prescribed controlled substance, except for that possession occurring in the line of official duty.

3.27 USE OF FORCE

Employees shall use force only as necessary and in accordance with current law and directives.

3.28 FIREARMS AND AMMUNITION

a) The indiscriminate and careless use of firearms is strictly prohibited.

b) Employees shall be responsible for the security of their firearms at all times.

c) Employees shall immediately report the loss, theft, sale or disposal of a firearm capable of being concealed on the person.

d) Sworn members of the Department shall report the acquisition of any firearm capable of being concealed on the person, or the alteration of any such weapon already possessed, to the Firearms Unit for recording of same.

e) While on duty, Officers shall wear their sidearm in the prescribed manner. When off-duty, they may carry their sidearm concealed on their person, in any manner they select.

f) While on duty, Officers shall only carry, use or discharge those firearms which have been duly approved and registered with the Firearms Unit. Officers must be qualified by the Firearms Unit for any weapon(s) possessed or carried by them while on duty.



g) While on duty, Officers shall carry, use or discharge only those types of ammunition which have been duly approved by the Buffalo Police Department.

h) While on duty, Officers are restricted from dry-firing or other forms of practice with a firearm, except under the personal direction of a Firearms Instructor.

i) Firearms shall not be used against another person except in extreme cases and only then if in conformity with the provisions of Penal Law, Article 35, "Defense of Justification". The discharge of a firearm at or from a moving vehicle is strictly forbidden except when justified within Article 35 of the Penal Law.

j) Members shall use their utmost discretion in discharging their firearms. If a member discharges his firearm for any reason, he/she shall immediately report same to his superior Officer and shall complete and file all reports as required by current directives.

k) No employee, other than a sworn member of the Department, shall possess or carry any type of firearm while on duty, except with the express written permission of the Commissioner.

### 3.29 APPLICATIONS FOR PISTOL PERMITS

Employees shall not endorse applications for pistol permits as character references.

### 3.30 UNIFORMS

Employees whose assignment requires the wearing of a uniform shall wear such uniform in the manner prescribed.

### 3.31 NON-UNIFORM ATTIRE

Employees working in non-uniform assignments shall wear attire appropriate to their duties and assignments in a manner prescribed by current directives.

### 3.32 OUTSIDE EMPLOYMENT

Employees may engage in outside employment subject to the approval of the Commissioner of Police and in accordance with law and current directives.

### 3.33 SICK LEAVE

Employees on sick leave shall not leave their place of residence except in accordance with current directives.

#### CHAPTER IV - USE OF OFFICIAL POSITION

##### 4.1 USE OF BADGE OR POSITION FOR PERSONAL GAIN

Employees shall not use, or attempt to use, their official position, badge or credentials for personal or financial gain or for personal vengeance. Employees shall not permit any other person to use their badge or credentials for any purpose whatsoever.

##### 4.2 DISCLOSING NAME AND BADGE NUMBER

Members shall give their name and badge number to any person requesting such information.

##### 4.3 COURTESY CARDS

No employee of the Department, either individually or representing any organization within the Department, shall give or issue to any person, other than a member of the Department, active or retired, any card, button or device which could be construed as granting to, or requesting for, the holder, any special privilege or consideration.

##### 4.4 USING PHOTOGRAPH FOR COMMERCIAL PURPOSE

Employees shall not, without the permission of the Commissioner of Police, allow their names or photographs to be used in any commercial enterprise which alludes to their employment with the Department.

##### 4.5 USING INFLUENCE OF OFFICE FOR POLITICAL PURPOSE

Employees shall not use the influence of their office or position for political purpose.

##### 4.6 RECOMMENDING ATTORNEYS

Employees shall not solicit, suggest, recommend, advise or counsel the engagement or retention of any specific attorney, legal firm, bail bondsman, company, or of any other person or firm for any person as a result of police business. This prohibition shall not apply to employees making such recommendations to their relatives.

##### 4.7 GIVING SURETY OR BAIL FOR PERSONS IN CUSTODY

Employees shall not offer or give surety or bail for any persons in custody except with the permission of the Commissioner of Police or such other person authorized by the Commissioner to give such approval. This prohibition shall not apply to employees giving surety or bail for their relatives.

##### 4.8 WITHDRAWING CHARGES

Employees shall not, except as provided by the Criminal Procedure Law, withdraw arrest charges, solicit withdrawals or void traffic charges unless approved by competent authority in conformity with existing regulations and procedures.

##### 4.9 COMMUNICATING INFORMATION TO AID EVASION

Employees shall not communicate any information which may enable persons to evade arrest and/or punishment or enable them to dispose of or secrete any evidence or contraband.



4.10 WARRANTS FOR PERSONAL ASSAULTS

Members shall not apply for a warrant for an assault upon themselves, without first reporting the circumstances, through their Commanding Officer, to the Commissioner and obtaining his permission.

4.11 CIVIL CASES

Employees shall not use the powers of their office to render assistance in the pursuit of matters which are strictly private or civil in nature except in those matters where they are required by law to so exercise their powers or where a breach of the peace has occurred or is imminent.

4.12 APPEARING AS WITNESS; FOR DEFENSE OR CIVIL CASES

Employees shall not appear as a witness for the defense in any criminal case, or in any legal proceeding in which the City of Buffalo is, or may become, a party, without first complying with Departmental Orders governing such cases.

4.13 COMMUNICATION BETWEEN PRISONERS AND ATTORNEYS

Employees shall not communicate any message between prisoners and attorneys without permission of their Commanding Officer. Employees may contact an attorney requested by a prisoner, but only for the purpose of advising the attorney of the arrest of the prisoner.

4.14 UNLAWFUL COMPROMISE

Employees shall not participate, directly or indirectly, in any unlawful compromise between complainants and offenders.

4.15 PLEA BARGAINING

Members shall not engage in, nor recommend, approve or actively consent to, the reduction or changing of a charge against a defendant.

4.16 CONNECTION WITH LIQUOR ESTABLISHMENT

Members shall not own, operate, or in any way be connected, either directly or indirectly, with any business where intoxicating liquors or beverages are manufactured or sold except in conformity with existing statutes.

## CHAPTER V - DEPARTMENTAL PROPERTY

### 5.1 USE AND RESPONSIBILITY

Departmental property shall be employed only for Departmental purposes and in conformity with the use for which it was intended. Employees shall be held responsible for the proper care and use of property and equipment assigned to or used by them. When investigation reveals that loss or damage of Departmental property or equipment was due to the negligence or carelessness of an employee or that such loss or damage was deliberately caused, such employee may be required to compensate the Department for the loss or damage.

### 5.2 REPORTING LOSS OR DAMAGE

- a) Employees shall immediately report in writing to their superiors whenever Departmental property becomes unserviceable or lost or damaged while in their possession or use.
- b) Superiors shall investigate and report in writing, through regular channels, whenever Departmental property is damaged, lost or destroyed due to negligence or lack of exercise of due care on the part of any employee.

### 5.3 QUALIFICATION REQUIRED

Employees shall not operate any item of Departmental equipment unless they are fully qualified and authorized to do so.

### 5.4 PROPERTY NOT TO BE REMOVED

Departmental property shall not be removed from the place to which it is assigned without proper authorization.

### 5.5 RETURN OF ISSUED/ASSIGNED PROPERTY

Departmental property entrusted, issued or assigned to an employee shall be returned by him/her upon separation from the Department. Compensation due may be withheld until he complies with this requirement.

### 5.6 UNAUTHORIZED COMMUNICATION DEVICES

No employee of the Department, while on duty, shall use, carry or have in his possession or under his control, any communication device of any nature (one or two-way radio, pager, beeper, etc.) except as authorized or issued by the Department.

### 5.7 DEPARTMENTAL BUILDINGS

- a) Employees shall maintain Departmental buildings, offices and equipment in a clean and orderly condition.
- b) No persons, other than employees of the Department, or persons on business, shall be permitted to remain or loiter in Police buildings, except by permission of the member in charge.
- c) Only persons authorized by the Commanding Officer shall be allowed behind the desks of the various station houses, except by permission of the Officer in charge.
- d) Department buildings shall not be used for other than police business, except by permission of the Commissioner.

e) No materials such as poster, pamphlets, leaflets, handbills, circulars, including, but not limited to, political posters, advertisements, announcements, etc., can be posted, displayed or distributed to the public or to Departmental employees on police property unless such materials are first approved by the Commissioner of Police. Commanding Officers of Precincts/buildings shall forward all such materials to the Commissioner, who will determine if such materials can be distributed or displayed on Police Department property.

f) No television sets shall be played, kept, or stored in any Police Department building without the express written permission of the Commissioner of Police.

## CHAPTER VI - REPORTS, RECORDS AND COMMUNICATIONS

### 6.1 ALTERING, DELAYING, REMOVING OR FALSIFYING REPORTS

- a) Employees shall not alter, delay, falsify, withdraw, remove, or request that any other person alter, delay, falsify, remove, or withdraw any report, letter, request, or other communication that is being forwarded through the chain of command. This shall not preclude the correction of errors.
- b) Employees shall not dissuade any other employee from originating and submitting any lawful or proper report, whether on criminal or disciplinary matters.
- c) Employees shall not falsely make or submit any type of official report or knowingly enter or cause to be entered any inaccurate, false or improper information on the records of the Department.
- d) Employees shall not remove, or permit to be removed, any Departmental record, communication or report from any file or place where they are kept, without permission of the member in charge. They shall give a receipt for the same whenever such record is removed.
- e) No Departmental record shall be altered, destroyed, or permanently removed, except in compliance with law and by direction of the Commissioner.

### 6.2 INSPECTION; COPYING OF REPORTS

None but persons authorized by law, Departmental Rule or Order, shall be permitted to see, examine or copy any Departmental record or report. Supervisors of the various branches of the Department shall establish, in conformity with existing law, rule and/or order, the conditions necessary to effect compliance with this rule.

### 6.3 DEPARTMENTAL BUSINESS; TIMELINESS OF REPORTS

Departmental reports shall be made at the times specified and in the manner prescribed. Departmental business shall be conducted through official channels in conformity with the Chain of Command and channeled throughout the Department in conformity with the Organizational structure of the Department.

### 6.4 REPORTING VIOLATIONS

Deleted as per PERB ruling of 6/25/90.

### 6.5 REPORTING ILLEGAL ACTIVITIES

- a) Members shall report to their supervisors all suspected places of illegal activity discovered or coming to their attention while on or off duty.
- b) Members shall take note of and investigate all suspicious persons and vehicles and report same in accordance with current directives.

### 6.6 UNAUTHORIZED GIFTS, GRATUITY, ETC.

Employees shall report in writing, to the Commissioner of Police, any offer or attempt to offer a gift, loan, fee or gratuity in violation of the Rules and Regulations.

6.7 TESTIMONY FOR DEFENSE

- a) Employees who are requested or subpoenaed to testify or who intend to testify on behalf of the defense against the Department, the City of Buffalo, the "People of the State of New York", or in any criminal action shall immediately notify their supervisor and the prosecuting attorney of such request, subpoena, or intention to testify prior to testifying.
- b) Employees who are requested or subpoenaed to testify against the Department of the City of Buffalo in any civil action shall immediately notify both their supervisor and the Corporation Counsel's Office of such request or subpoena.
- c) The employee shall forward this information in both "a" and "b" above to the Professional Standards Division.

6.8 INFORMATION REGARDING CRIME

Employees, whether on or off duty, shall communicate promptly to their supervisors, all information on crimes, criminal activity or important happenings of which they have knowledge.

6.9 ARRESTS AND COURT ACTIONS

Deleted as per PERB decision of 6/25/90.

6.10 ADDRESS AND TELEPHONE NUMBER

- a) Employees shall report their place of residence or change of residence to their Commanding Officer and to the Bureau of Administrative Services within forty-eight (48) hours of such change.
- b) Employees shall report their telephone number or change in telephone number to their Commanding Officer and to the Bureau of Administrative Services within twenty-four (24) hours of such change.

6.11 CIVIL SUITS; CLAIMS FOR LOSS OR PERSONAL INJURY

- a) Employees shall report any claims for damage to clothing or other personal property belonging to the employee caused by the performance of duty in conformity with the provisions of the Manual of Procedures.
- b) Employees shall not seek in any way, nor accept from any person, money or compensation for damages sustained or expenses incurred by them in the line of duty without first reporting in writing to the Commissioner their intention of doing so and obtaining his permission to do so.
- c) Employees who have received municipal salaries or sick benefits for illness or for personal injury sustained while either on or off duty shall report according to existing Departmental regulations any intent to seek, solicit or accept compensation/reimbursement as damages for such illness or injury. The report shall be filed before the action is taken which shall include the facts of the claim and the name of the defendant or party. The Commissioner shall be kept informed of the status of the case/claim and the final court determination or settlement.

## CHAPTER VII - SUPERIOR OFFICERS/SUPERVISORS

### 7.1 DUTIES AND RESPONSIBILITIES: GENERAL

Superior Officers/Supervisors are charged with the duty and responsibility to properly and adequately supervise employees under their authority at all times to insure compliance with all Departmental Rules, Regulations and Orders in order to insure fair and effective discipline and to promote the mission of the Department. In furtherance of that goal and to fulfill their responsibility; Superior Officers/Supervisors shall:

- a) Provide that their subordinates are properly instructed in all their duties and shall be responsible for the enforcement of the law and compliance with Departmental Rules, Procedures and Orders by their subordinates.
- b) Be responsible for the discipline and conduct of their subordinates and for the quality and effectiveness of the service rendered by them. In that regard, they shall thoroughly acquaint themselves with the capabilities of the personnel under their jurisdiction and shall report thereon when required.
- c) At all times, strictly and impartially enforce the observance of high ethical standards of their subordinates.
- d) Be responsible to insure that orders given to subordinates are properly carried out.

### 7.2 ABUSE OF SUBORDINATES

Superior Officers/Supervisors shall not injure or abuse subordinates by tyrannical, arbitrary or capricious conduct or by abusive language and shall avoid censuring them in the presence of others.

### 7.3 DUTY TO INVESTIGATE AND REPORT MISCONDUCT

Superior Officers/Supervisors shall thoroughly investigate and take proper action in conformity with existing procedures whenever a complaint is made against an employee of the Department and shall file, according to existing procedures, a complete report thereon.

### 7.4 EXEMPLARY CONDUCT EXPECTED

In furtherance of their obligation to "lead by example", Superior Officer/Supervisors shall, at all times, conduct themselves in a manner which furthers the goals and mission of the Department and which sets a proper example of conduct, decorum and attention to duty that is expected of all employees of the Department.

### 7.5 DUTY TO DISCOVER

It is not enough for a superior officer to only investigate or report on misconduct or transgressions which are brought to his/her attention. It is also his/her responsibility to discover these acts, especially where a pattern or trend has developed, and a reasonable man should have been expected to discover such acts.